

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**ELUID NEWSOME,**

Plaintiff,

v.

**STATE OF OREGON – OREGON  
HEALTH AUTHORITY,**

Defendant.

Case No. 3:16-cv-00561-AC

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge John Acosta issued Findings and Recommendation in this case on August 22, 2016. ECF 13. Judge Acosta recommended that Defendant's motion to dismiss be granted and Plaintiff be given leave to amend his complaint. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Acosta’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Acosta’s Findings and Recommendation, ECF 13. Defendant’s motion to dismiss this case (ECF 167) is **GRANTED**. This case is dismissed without prejudice. Plaintiff is given leave to amend his complaint to assert claims against Oregon Health Authority Deputy Director John Thompson.

**IT IS SO ORDERED.**

DATED this 22nd day of September, 2016.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge